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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,954	12/02/2003	Jeffrey L. Sands	10841; 60246-296	2882

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EXAMINER	
KUMAR, RAKESH	
ART UNIT	PAPER NUMBER
3651	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/725,954	SANDS ET AL.	
	Examiner	Art Unit	
	RAKESH KUMAR	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 November 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) *2,3 and 13-17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-12 and 18-24* is/are rejected.

7)☒ Claim(s) *25-29* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 November 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,9,19,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,592,485) in view of Kurokawa (US 5,230,440).

Referring to claims 1,9,19,22. Anderson discloses an automated refrigerator comprising:

a platform (170) moveable within the automated refrigerator in response to a request (40) for said at least one item (302); and

a retention mechanism (110) comprising at least one retention member (112) moveable between a first position (Figure 10d) and a second position (Figure 10a), the at least one member (112) when in the first position (Figure 10d) located to retain a portion of said at least one item (302) in the automated freezer,

furthermore the one item is transferred to a grill for cooking (see microwave).

Anderson does not disclose a removable cartridge.

Kurokawa discloses a removable cartridge (Figure 30) for storing at least one item (24); a platform (34) moveable within said removable cartridge (4; Figure 29), wherein the cartridge has a substantially circular inner profile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson to include a removable cartridge containing articles to be dispensed as taught by Kurokawa because the loading articles into the automated refrigerator in a cartridge form would be made easier for a user.

Referring to claim 21. Anderson does not disclose the one item to be dispensed as being a hamburger.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson in view Kurokawa to have include one item to be dispensed as being a hamburger because would be more functional.

Referring to claim 23. Anderson does not disclose the apparatus freezes at lest one item.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson in view Kurokawa to have the apparatus freeze items contained within the apparatus because it would extend the life of the product and reduce spoilage.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,592,485) in view of Kurokawa (US 5,230,440) and further in view of Covington (US 4,142,863).

Referring to claims 10-12. Anderson in view Kurokawa disclose all claimed limitations of claim 10 however Anderson in view Kurokawa do not disclose a circular configuration of the cartridge comprising two half circle portions.

Covington discloses a article container configured rectangular in shape comprising of two halves bisected in the middle to form the container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson in view Kurokawa to have included the circular shaped cartridge comprised of two sections bisecting in the middle as taught by Covington because the cartridge would be easier to load.

Claims 4,5,7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,592,485) in view of Kurokawa (US 5,230,440) and further in view of Kaufman (US 5,335,816).

Referring to claim 4. Anderson in view Kurokawa discloses all claimed limitations of claim 4 however Anderson in view Kurokawa does not disclose a removal device responsive to a request.

Kaufman discloses a medication delivery system wherein the apparatus (Figure 5) includes a removal device (130) and an exit opening (130), and said removal device removes (130) said at least one item (128) from apparatus through said exit opening (132) in response to said request.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson in view Kurokawa to have included a removal device responsive to a request to eject an article from the apparatus as taught by Kaufman because a user would not need to reach into the vending apparatus but rather the article would exit through the opening thus making removal easier.

Referring to claim 5. Anderson discloses an automated refrigerator wherein said platform (170) raises after said at least one item (302) exits said automated freezer through said exit opening.

Referring to claim 7. Kaufman discloses a delivery system wherein said removal device is pivotal (Figure 5).

Referring to claim 8. Anderson discloses an automated refrigerator wherein a controller (40) associated with the apparatus and a POS device (42), and wherein said request comprises a signal sent by said POS device (42).

Claims 6,18, 20,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 4,592,485) in view of Kurokawa (US 5,230,440) in view of Kaufman (US 5,335,816) and further in view of Mishina (US 5,555,965).

Referring to claims 6,20,24. Anderson in view Kurokawa and Kaufman disclose all claimed limitations of claim 6, however Anderson in view Kurokawa and Kaufman do not disclose a sensor detecting at least one item.

Mishina discloses a vending apparatus including a sensor (134 and 138), and said removal device (plunger) removes said at least one item from the apparatus through the exit opening in response to said request when said sensor detects said at least one item.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Anderson in view Kurokawa and Kaufman to have included a sensor to detect at least one product as taught by Mishina because the removal device would only function if there is at least one item in the apparatus thus reducing excessive wear of the apparatus.

Referring to claim 18. Regarding method of transferring at least on item from the apparatus see the operation of the apparatus, As stated above.

Allowable Subject Matter

Claims 25-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Response to Arguments

Applicant's arguments with respect to claims 1, 18 and 24 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art Unit 3651

/RAKESH KUMAR/
Examiner, Art Unit 3651